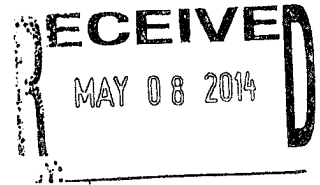


ILLINOIS INDEPENDENT TAX TRIBUNAL



ST. MARY'S STATION II INC.,

Petitioner,

v.

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE,

Defendant.

No. 14 TT 34  
Chief Judge James M. Conway

**AMENDED PETITION**

Petitioner, St. Mary's Station II Inc. ("Petitioner"), by and through its attorneys, Romanoff & Dickett, Ltd, complains of the Defendant, the Illinois Department of Revenue ("Department"), and alleges:

**PARTIES**

1. Petitioner is an Illinois corporation located at 5344 South Harlem Avenue, Summit, Illinois, 60501, and can be reached at 847-702-3877.
2. Petitioner is represented by Romanoff & Dickett, Ltd. attorney James E. Dickett, located at 600 Hillgrove Avenue, Suite 1, Western Springs, Illinois, 60558 and can be reached at 708-784-3200 or [jdickett@aol.com](mailto:jdickett@aol.com).
3. Petitioner's Taxpayer (Account) ID is 3506-7586.
4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. 20 ILCS 5/5-15.

### **NOTICE**

5. On January 24, 2014, Petitioner received two Notice of Tax Liability letters (“Notices”) from the same audit. The first Notice is for the tax periods July 1, 2009 to March 31, 2011, and that Notice is currently pending in this Tax Tribunal case. The second Notice is for the tax periods January 1, 2009 to June 30, 2009 (copy attached as Exhibit A), and that Notice was improperly protested to and docketed by the Illinois Department of Revenue Administrative Hearings Division due to the aggregation requirement in the statute (see attached ALJ’s Notice of Disposition dated April 30, 2014). In particular, the tax amount in the second Notice (January 1, 2009 to June 30, 2009) is less than \$15,000, but the tax amount of both Notices, when aggregated, exceeds \$15,000 so both Notices should be adjudicated in the Tax Tribunal.

### **JURISDICTION**

6. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act (“Tribunal Act”), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100.

7. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and 1-50 of the Tribunal Act.

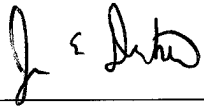
### **BACKGROUND**

8. Petitioner realleges and incorporates by reference its original Petition dated March 6, 2014, because the audit tax liability in both Notices was derived from the same sales/use tax audit. The Department issued two Notices because the penalty and interest calculations changed on July 1, 2009, which is in the middle of the audit tax period.

Thank you for considering this Amended Petition.

Respectfully submitted,

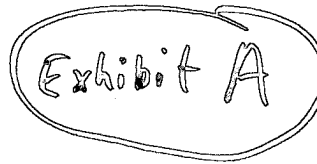
St. Mary's Station II Inc.,  
Petitioner

By:   
One of Petitioner's Attorneys

Date: 5/2/14

James E. Dickett  
Romanoff & Dickett, Ltd.  
600 Hillgrove Avenue, Suite 1  
Western Springs, IL 60558  
708-784-3200

**Notice of Tax Liability**  
**for Form EDA-105-R, ROT Audit Report**



#BWNKMGV  
#CNXX X16X 7526 24X0#  
ST MARYS STATION II INC  
ATTN: JAMES DICKETT  
600 HILLGROVE AVE STE 1  
WESTERN SPRINGS IL 60558-1475

January 24, 2014



Letter ID: CNXXX16X752624X0

Account ID: 3506-7586

We have audited your account for the reporting periods January 01, 2009, through June 30, 2009. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	11,703.00	(11,703.00)	0.00
Late Payment Penalty Increase	4,681.00	0.00	4,681.00
Interest	2,309.00	0.00	2,309.00
<b>Assessment Total</b>	<b>\$18,693.00</b>	<b>(\$11,703.00)</b>	<b>\$6,990.00</b>

**If you agree**, pay the assessment total as soon as possible to minimize additional penalty and interest. Mail a copy of this notice and your payment with the voucher on the enclosed Taxpayer Statement. By including a copy of this notice, your payment will be properly applied to the audit liability.

**If you do not agree**, you may contest this notice by following the instructions listed below.

- **If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability is assessed but the total penalties and interest is more than \$15,000**, file a petition with the Illinois Independent Tax Tribunal within **60 days** of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, *et seq.*).
- **In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue**, and request an administrative hearing within 60 days of the date of this notice, which is **March 25, 2014**. Submit your protest on Form AH-4, Protest and Request for Administrative Hearing with the Illinois Department of Revenue (available on our website at [tax.illinois.gov](http://tax.illinois.gov)). Mail form AH-4 along with a copy of this notice to the address on the form. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.
- **Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue**, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at [tax.illinois.gov](http://tax.illinois.gov)), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the assessment total in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action to satisfy your liability.

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our contact information is listed below.

BUREAU OF AUDITS  
TECHNICAL REVIEW SECTION  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19012  
SPRINGFIELD IL 62794-9012

217 785-6579



**Illinois Department of Revenue  
OFFICE OF ADMINISTRATIVE HEARINGS  
James R. Thompson Center  
100 West Randolph Street, Level 7-900  
Chicago, Illinois 60601  
(312) 814-6114**

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**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

**v.**

**ST. MARY'S STATION II INC.,  
Taxpayer**

**No. 14-ST-086  
Account ID 3506-7586  
Letter ID CNXXX16X752624X0  
Period 1/09-6/09**

**Ted Sherrod  
Administrative Law Judge**

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**NOTICE OF DISPOSITION**

**To: James Dickett, Esq.  
Romanoff & Dickett, Ltd.  
600 Hillgrove Ave. Suite 1  
Western Springs, IL 60558**

**Michael Coveny  
Illinois Department of Revenue  
100 W. Randolph 7<sup>th</sup> Floor  
Chicago, IL 60601**

**YOU ARE HEREBY NOTIFIED** that the attached Order of the Administrative Law Judge transferring the above captioned matter to the Illinois Independent Tax Tribunal has been approved by the Director of Revenue. By such Order, all proceedings before the Administrative Hearings Division of the Illinois Department of Revenue relative to this cause have been concluded.

**Date: April 30, 2014**

**Brian A. Hamer, Director  
Illinois Department of Revenue**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS**

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**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

**v.**

**ST. MARY'S STATION II INC.,  
Taxpayer**

**No. 14-ST-086**

**Account ID 3506-7586**

**Letter ID CNXXX16X752624X0**

**Period 1/09-6/09**

**Ted Sherrod**

**Administrative Law Judge**

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**ORDER**

This matter coming on to be heard on the Taxpayer's Motion to Transfer to Illinois Independent Tax Tribunal requesting an order transferring this case to the Illinois Independent Tax Tribunal ("Tribunal"), filed April 23, 2014, and the Administrative Law Judge being fully advised in the premises,

**IT IS HEREBY ORDERED THAT:**

1. Taxpayer's Motion to Transfer to Illinois Independent Tax Tribunal is granted.
2. Effective January 1, 2014, protests of notices of tax liability for more than \$15,000 in tax, exclusive of penalty and interest, including protests where the aggregate amount of tax at issue in multiple notices for the same year or audit period exceeds \$15,000 are under the exclusive jurisdiction of the Independent Tax Tribunal pursuant to 35 ILCS 1010/1-45. Since the amount at issue in the Notice of Tax Liability in the instant case, when aggregated with another Notice of Tax Liability for the same audit period involving the

taxpayer, exceeds \$15,000, the Department has no jurisdiction over this matter and the protest filed with the Department was improperly filed.

3. The administrative hearing record for this case will be transferred to the Tribunal.
4. The Taxpayer will be required to perfect its protest before the Tribunal in accordance with 35 ILCS 1010/1-1 *et seq.*

**WHEREFORE**, for the reasons stated above, it is hereby ordered that all further proceedings in this matter are cancelled and the proceedings before the Office of Administrative Hearings of the Department are closed.

**Date: April 30, 2014**

**ENTER:**

**Ted Sherrod  
Administrative Law Judge**